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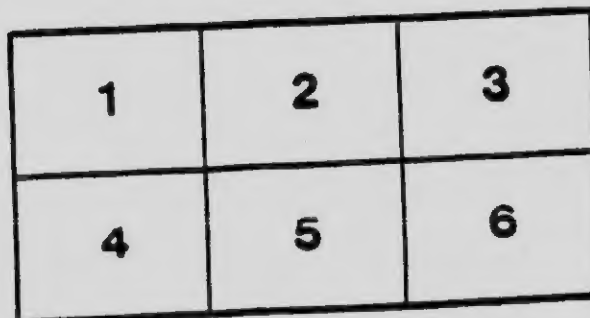
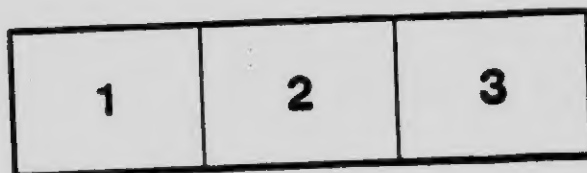
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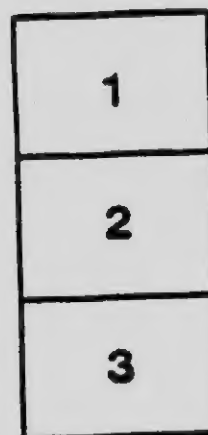
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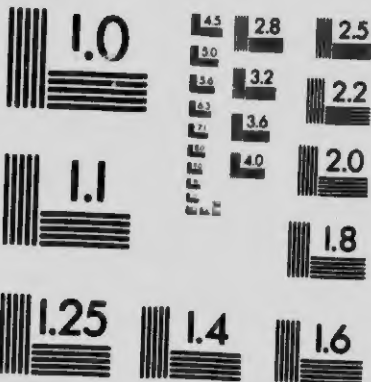
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LIQUOR LICENSE LEGISLATION

GOOD EFFECT OF RESTRICTIVE
ENACTMENTS

IMPROVEMENTS IN THE LICENSE ACT

CONSERVATIVE OBSTRUCTION
TO IMPROVEMENT

KEC749
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THE LIQUOR LICENSE LAWS OF THE PROVINCE OF ONTARIO.

When the Mowat Government took office in 1871, the liquor traffic was under the control of the Municipal Councils of the Province, and licenses to sell liquor were issued by the municipality. The inspection of hotels was also directed by the Municipal Councils by an officer appointed by the Council.

As a consequence there was great abuse of the power to issue licenses, and the whole question as to the issue of licenses and the regulation of the traffic entered into municipal politics and seriously affected municipal elections.

The first radical change in the license laws of the Province was made in 1876, by an Act commonly known as the "Crooks Act," by which the licensing of hotels and other places for the sale of liquors was placed in the hands of three commissioners for each electoral district, and the inspection of hotels, etc., in the hands of an officer appointed by the Government, known as Inspector of Liquor Licenses.

The following table gives, in intervals of five years, the numbers of each kind of license issued between 1874 and 1900 inclusive:—

Year.	Tavern.	Shop.	Whole- sale.	Vessel.	Total.
1874-5.....	4,793	1,317	52	33	6,185
1879-80.....	3,100	757	42	22	4,020
1884-5.....	3,253	675	28	14	3,970
*1888-9.....	2,006	336	26	17	2,445
1889-90.....	3,073	445	27	15	3,560
1894-5.....	2,785	337	29	—	3,151
1899-00.....	2,621	308	21	—	2,950

*Scott Act year.

The number of licenses issued in proportion to population was as follows:—

1875. One to 278 persons. | 1900. One to 700 persons.

Comparison with United States.

The following statement taken from a late return of the Commissioner of Inland Revenue of the United States shows the number of licenses issued according to population in several States:—

Illinois.....	One to each	181	Minnesota.....	One to each	301
Indiana.....	"	247	New York.....	"	134
Iowa.....	"	280	Ohio.....	"	203
Michigan.....	"	230	Massachusetts.....	"	386

The position of Ontario under the License Act will be better appreciated by the following statement:—

Number of organized Municipalities in the Province.....	750
Number of organized Municipalities where no tavern licenses are issued.....	141
Or twenty per cent. of the whole number.	
Number of Municipalities in which one and not more than two tavern licenses are issued.....	435
Or fifty-seven per cent. of the whole number.	
Number of Municipalities without a shop license.....	625
Or eighty-two per cent. of the Municipalities of the Province.	

Some Figures for Canada.

According to population, licenses were issued for last year as follows:—

Quebec.....	One to each	635	Montreal.....	One to each	349
Toronto.....	"	1000	Ontario.....	"	700

Commitments for Drunkenness.

The beneficial effect of the improvement made in the license laws is strikingly shown in the reduction of the number of commitments for drunkenness. The commitments to gaol according to population were in:—

1876.....	One for every	444 persons	1892.....	One for every	772 persons
1882.....	"	561	1900.....	"	836

Comparison with Other Provinces.

Statement of convictions for drunkenness in the Provinces of the Dominion, as shown by Dominion Year Book, 1900:—

Ontario.....	One to	823 persons	Manitoba.....	One to	355 persons
Quebec.....	"	461	British Columbia.....	"	207
Nova Scotia.....	"	448	Prince Ed. Island.....	"	341
New Brunswick.....	"	253	The Territories.....	"	180

Average for the Dominion, One to 440.

Average for Ontario, One to 681.

Fifteen Years' Record.

The return for each period of five years since 1886 shows a reduction in commitments for drunkenness as follows :

In the period from 1886 to 1890 the average commitments were	4,311
For the next five year period from 1891 to 1895, the average number of commitments had fallen to	2,703
For the next five year period, 1896 to 1900, the average number had again dropped to	1,920
This is a decrease in 13 years of	2,391

This represents a reduction of over 55 per cent., a reduction which will be much emphasized when the large increase of population in that time is considered. Ontario thus stands at the head of all the provinces in having a sober people. Education and progressive legislation have brought about these results.

Revenue from Tavern, Shop and Wholesale Licenses.

Equally noticeable with the falling off in the number of licenses issued under the Crooks Act, is the increase of revenue nevertheless derived. One of the provisions of that Act was, that part of this revenue should go to the Province and the remainder to the municipalities, the former assuming, and the latter being relieved from the sole responsibility of enforcing the law against illicit selling. The following table shows the proportionate revenue accruing to the Province and to the municipalities respectively, for the years therein stated :—

	Municipal Revenue.	Provincial Revenue
1886-7	\$153,716 59	\$216,455 78
1887-8	156,979 80	201,542 45
1897-8	250,873 38	208,247 40
1898-9	252,580 90	261,523 15
1899-1900	249,496 00	304,819 68
1900-1	250,482 13	304,076 00

The revenue obtained by the municipalities from the liquor traffic, under the Crooks Act is much greater than was obtained before the enactment of that law, notwithstanding the fact that the number of licenses is less by one-half, and is greater than they would have been receiving now had it not been enacted. It may also be stated that while the Act enables Municipal Councils to increase the fees for their

own benefit, only 335 of the 756 municipalities have taken advantage of this provision of the law. It has been urged by the Opposition that the Liquor License act represents a "robbery" of the municipalities by the Government. The total revenue derived from the liquor licenses since 1876 up to May, 1901, amounts to the sum of **\$12,224,539**. Of this sum the municipalities have received over half, or no less than **\$6,418,002**.

Briefly, The Crooks Act.

(a) Limited the number of licenses to be granted in every municipality; (b) Took the power of granting licenses away from the Municipal Councils and conferred it on Boards of Commissioners; (c) Authorized each Council to still further limit the number of licenses; (d) Authorized the Commissioners to do the same thing; (e) Authorized each Council to prescribe conditions for obtaining a tavern license in addition to those specified in the license law itself; (f) Authorized each Council to limit the number of shop licenses, to require the holder of a shop license "to confine the business of his shop solely and exclusively to the keeping and selling of liquor," and to "impose any restrictions upon the mode of carrying on such traffic as the Council may think fit;" (g) Imposed a minimum fee for each of the three kinds of licenses—wholesale tavern and shop; (h) Vested the appointment of License Inspector in the Lieutenant-Governor-in-Council; (i) Required all taverns to be well-appointed eating-houses.

Under the operation of the Act the reduction in the number of licenses issued was immediate, and has so far proved to be permanent as the following statement will show:

In the first period of five years, the reduction was **2,165 or 133 per year**.

During the next five-year period the reduction was less, being only **fifty, or ten per year**.

In the third five-year period the reduction was considerably greater—**110, or 82 per year**.

In the next five-year period the figures of reduction were also considerable—**109, or 81 per year**.

In the fifth period the number decreased by **201, or a decrease of 10 per year**.

For twenty-five years, between 1874 and 1900, the decrease in the number of licenses has been a decrease of 130 per year, the aggregate decrease being **3,235**.

While the actual reduction has been large it becomes relatively much greater when the great increase in population during the period named is taken into consideration. If licenses had been issued in 1899 at the same ratio that obtained in 1874—namely, one for every 280 of the population—the licenses would have reached the very large number of **8,028**, whereas the actual number was only **2,530**.

Improvements in the License Act.

Electors who can look back to the wholesome effect of the assumption by the Province of the supervision of the liquor traffic will remember the general feeling of relief which followed; and, notwithstanding the steady opposition of the Conservative party, the educated public opinion which rallied behind the Liberal Government has sustained it to the present hour—the Government having consistently improved the legislation as necessity arose. The following are some of the amendments enacted from year to year:—

Act of 1877.

The amendments of 1877 provided for the placing of:

- Restrictions upon sales by druggists.
- Restrictions upon sales in vessels.
- Increased penalties for second and third offences.
- And searching in unlicensed houses were provided for.

Act of 1878-81.

In the amendments of 1878:—

Provision was made for the enforcement of the Dunkin Act, and for paying the costs thereof.

In the amendments of 1881:—

- Provision was made for the issue of beer and wine licenses.
- Further increase was made of penalties for second and third offences.
- The actual seller of liquor was made liable.
- Increased facilities for searches and confiscation of liquor were provided.
- Provisions for enforcing the Scott Act were made, and Police Commissioners and Chiefs of Police were especially charged with the duty of enforcing the License law.

Act of 1884.

The amendments of 1884 provided:—

That the number of saloon licenses be limited in cities and be refused altogether in towns having less than 6000 of a population.

Provision was also made for publication of names of new applicants for licenses and description and location of premises proposed to be licensed.

Privileges were granted to electors to oppose by petition the granting of licenses—the majority of electors may prevent the issue of new licenses.

No new shop licenses to be granted to premises in which other goods are sold; and in 1888 no shop license whatever is to be granted to premises in which other goods were sold.

No appeals allowed except to the County Judge in Chambers.

Appeals permitted to the Court of Appeal from the decision of the County Judge.

Stringent provisions were made regarding sales to habitual drunkards.
 One bar only to be allowed in future.
 No licenses hereafter to ferry boats.
 Penalties were imposed for refusing lodging and for taking articles in pledge for liquor, also for permitting drunkenness on the premises.
 The sale of liquor to minors under sixteen years of age was prohibited.
 Purchasers of liquor during prohibited hours or on unlicensed premises were made liable to penalty.
 Further increase of fees for licenses was made.
 In 1885 purchasers not being members of the family were made further liable.

Act of 1886.

In the amendments of the year 1886:—

Increased duties for licenses were provided for, and increased penalties and punishments imposed for selling without license.
 A Provincial Inspector was appointed to audit License Inspectors' Accounts, to investigate complaints and to attend to other specified duties.
 More Stringent regulations were made for Saturday night and Sunday selling.
 Frequenters of bar-rooms on Saturday nights and Sundays were made liable to arrest.
 Penalties for sales to unlicensed dealers were imposed.
 Provision was made for permitting one justice to hear cases in rural municipalities.

Act of 1888.

The amendments of 1888 consisted of:—

Further provision for enforcing the Scott Act and providing for expenses.
 The amendments of 1889 were important:
 New applicants for premises not under licenses were required to produce certificates signed by majority of electors.
 No license permitted to be granted to vessels.
 Increased penalties and punishments for selling without licenses.
 Prohibited age of minors raised to 18.
 Owners of houses, in which liquor is sold illegally, made liable.
 No appeals allowed in cases of conviction of unlicensed persons.
 Further stringent provisions were made regarding the frequenters of unlicensed premises.
 And the important provision was made for the introduction and passing of Local Option By-Laws.

Act of 1891-92.

In the amendments of 1891:—

Provision was made for hearing special cases in Court of Appeal *re* Local Option By-Laws, and for the re-hearing of cases where by-laws were quashed.

In the amendments of 1892:—

Provisions were made for the enforcement of the License Act applied to Local Option.
 Increased provisions were made regarding the sale of liquor to habitual drunkards.
 Appeals were allowed to County Judge from orders of dismissal of Police Magistrate.
 Further restrictions were imposed regarding druggists.
 Brewers were restricted to sale to holders of licenses only.

Members of Municipal Councils and Constables were rendered ineligible as bondsmen for license holders. It was provided that Local Option By-Laws shall not be repealed for three years.

Act of 1897.

In 1897 the legislation:—

Increased the population limit to three licenses for the first thousand of the population, and one license for each full 600 additional persons except in County towns. Further restrictions were placed on the sale of liquor by druggists.

The hours for sale of liquor were fixed at from 6 a. m. to 10 p. m. in townships, and from 6 a. m. to 11 p. m. in cities, leaving power in the hands of License Commissioners to still further limit the hours.

An amendment was passed prohibiting the sale of liquor to any person under 21 years of age—the previous limit having been 18—and prohibiting license holders from permitting minors to loiter round their premises.

This amendment, all will admit, is of immense importance.

Saloon licenses were abolished.

License Commissioners were prohibited from granting licenses, within 300 feet of churches and schools, to premises not heretofore licensed.

And provision was made for the cancellation of licenses on the certificate of the magistrate showing that the license holder had knowingly broken the law by three violations of the provision forbidding sales during prohibited hours.

The Crooks Act Endorsed.

The friends of the temperance cause hailed with delight the withdrawal of the power from municipal corporations to issue liquor licenses, and the assumption of that authority by the Government. The following resolution adopted by the Methodist general Conference in 1882, voiced then, as it does now, the sentiment of the general public upon this question:—

“Although we cannot accept as righteous absolutely any license law, yet, if we must tolerate some one as the tentative regulator of an evil till we can have it removed, we must regard the Crooks Act as the best instrument for this suppression the Province of Ontario ever had. We would emphatically deprecate any legislation that would impair its efficacy, and we would respectfully recommend our people, where this law obtains, to use their voice and franchise to prevent the control of this license system reverting to the municipalities, where the industrious ward politician and the interested liquor dealer so largely manipulate the election.”—*Resolution of the Methodist General Conference, Sept., 1882.*

Policy of the Opposition.

The policy of the Opposition has been particularly variable on the temperance question. A glance at the following resolutions offered by them at different periods will reveal their vacillation on this subject, and

must confirm the opinion that the steady, liberal and progressive policy of the Government is the only one which can safely be followed in this important matter in the interests of the people.

Policy in 1876.

During the discussion of the licensing law of 1876, on the 7th February, contesting the proposal of the Government to reduce the number of licenses issued at once, Mr. Meredith moved, seconded by Mr. Scott:—

That the Bill be not now read a third time, but that it be forthwith referred to a Committee of the whole House, with instructions to amend the same, so far as to provide that the provisions therein contained, for limiting the number of tavern licenses to be granted, shall not come into force until the first day of March, A.D. 1877.

The date so named was a year later than that on which the Government proposed to bring the limiting provision into force; and Mr. Meredith's motion was lost on a division. Mr. Lauder then moved in amendment, seconded by the Hon. Mr. McDougall:—

That the Bill be not now read a third time, but that it be referred to a Committee of the whole House, with instructions to amend the same so as to provide that in cities and towns separated from counties for municipal purposes, the Mayor, and in other places the Warden of the County, shall be one of the three License Commissioners referred to in section one of the Bill.

This would have had the effect of perpetuating the licensing business as a vicious influence in municipal affairs to a partial extent at least. The resolution was lost.—Yeas, 31; Nays, 49.

Policy in 1877.

In the discussion of the Bill amending the Licensing Act, on February 16th, 1877, Mr. Harkin moved, seconded by Mr. Preston, in amendment:—

That the Bill be not now read a third time, but be recommitted to a Committee of the whole House with instructions so to amend the Bill as to enable the Council of every municipality to appoint its own inspector or inspectors; to determine his or their remuneration; to decide to whom licenses shall be granted in their respective municipalities, having regard to the limitations imposed by the Act 39 Vic. t. chap. 26; and to dispense with the services of the Commissioners and Inspectors now appointed under said Act by His Honor in Council.

This amendment being defeated, Mr. Creighton then moved, seconded by Mr. Barr:—

That all the words after "Municipality" be struck out, and the following inserted in lieu thereof: "To decide to whom licenses shall be granted in their respective municipalities, having regard to the limitations imposed by the Act 39 Vict., Chap. 26."

The resolution or amendment then proposed read as follows:—

That the Bill be not now read a third time but be recommitted to a Committee of the whole House, with instructions so to amend the Bill as to **enable the Council of every municipality to decide to whom licenses shall be granted** in their respective municipalities, having regard to the limitations imposed by Act 39 Vict., Chap. 26. It was declared lost on a vote of yeas 9; nays 60.

Policy in 1882.

That they are and have been in favor of the vicious expedient of returning to the municipalities this source of danger and trouble, however, was again made manifest from the position taken at the Conservative Convention in Toronto, on September 14th, 1882, when it was unanimously resolved to be

"The opinion of this Convention that without interfering with the laws regulating the liquor traffic, and limiting the number of licenses that may be issued, the power of issuing licenses and the fees derived therefrom, should **be restored to the municipalities.**"

In speaking to this resolution Mr. Meredith said that

"He was prepared to say that the present Opposition if it took office would be prepared to wipe away the partizan commissioners. (Cheers.) He was prepared to restore to the people of the Province the rights they formerly exercised. (Cheers.) He was prepared to give back to the municipal bodies **the rights they formerly enjoyed.**" (Cheers.)—*From report in Mail.*

Policy in 1883.

This policy was further pursued in a resolution in amendment to a motion to go into Committee of Supply, 24th January, 1883, when it was moved by Mr. Meredith, seconded by Hon. Mr. Morris:—

That all the words in the motion after "That" be struck out, and the following substituted therefor: "This House, while recognizing the necessity of maintaining the other provisions of the existing liquor license law, and strictly enforce them, is of opinion that it is not in the public interest or calculated to promote the cause of temperance to continue the mode of appointing Boards of License Commissioners, and License Inspectors now in force, and is further of opinion that these Boards should, in order to remove them as far as possible from the influence of political partizanship, be appointed in counties by the county councils, and in cities and towns

separate from counties by the councils thereof, and that the power of appointing one or more License Inspectors in each license district should be vested in the Board, and this House regrets that legislation providing for this change in the law, and for handing over to the municipalities the whole of the license fees, except a sum sufficient to pay the expenses of the License Branch of the Department of the Provincial Secretary, has not been proposed for its consideration by the advisers of His Honour the Lieutenant-Governor."—Lost Yeas 23, nays 49.

Policy in 1890.

The policy of the Opposition was again reconstructed by the submission of the following resolution during the session of 1890 as an amendment to the Hon. Mr. Gibson's measure:—

"That the Bill be not now read a third time, but be referred back to a Committee of the whole House, and so amended as to provide that the License Commissioners hereafter be appointed in counties by County Councils and in cities and towns elected by the municipal electors of such cities and towns."

Policy in 1896.

In 1896 after allowing the question to lie dormant for several years, Mr. Marter, then Leader of the Opposition, seconded by Mr. Whitney, the present leader, moved a resolution which concluded as follows:—

"That this House is of opinion that it is essential to the honest, non-partizan and faithful execution of the liquor license laws, that the present mode of appointing Boards of Commissioners should be abrogated, and that in future the Boards of Commissioners in counties should consist of the County Judge, the Warden of the County, and one appointed by the Government and in cities and towns not connected with the county municipally the County Judge, Mayor, and one appointed by the Government."

It will be noticed that the policy of the Opposition on this subject has varied on each occasion when they brought the matter forward. In 1890 they proposed that the appointments should be made by County Councils in the counties, and that in cities and towns Commissioners should be elected by the direct vote of the electors. In 1883 they asked that Municipal Councils alone should elect Commissioners. In every instance they have demanded that not only the appointment of Commissioners but also that of Inspectors, and the issuing of licenses, should be placed again under municipal control, a system previously discarded as wholly pernicious.

Respecting the proposal submitted in 1896, it may be said that heretofore the appointment of County Judges as Commissioners has

been found impracticable and inexpedient. Under the provisions of the License Act they are constantly called upon to hear appeals and determine cases. It is also their duty under the law to hear complaints when the legality of the issue of licenses is called in question, and if the evidence warrants, revoke the action of the Commissioners in granting the license, and punish them or the Inspector for any illegality committed. Under the law Commissioners who are magistrates are prohibited from adjudicating upon cases.

Policy in 1897.

The entire absence of anything like an Opposition policy on the license question under the leadership of Mr Whitney is indicated by the following extracts from a speech by that gentleman, delivered in the Legislature during the debate on the second reading of the Liquor License Bill, on March 30th, 1897. Mr. Marter, who had spoken previously, had been questioned as to the views of his party on the subject, and the Opposition leader, in the course of his speech, dealt with the matter at some length:

"He wondered at the question that came from the Government benches, which asked why did not the member for North Toronto declare what he would do. In a humorous manner he characterized the muddle that the Government had got into as a peculiar bog, in which the Government were rapidly becoming embedded. He declared that they were calling upon the Opposition to come over and help them out. . . . It was not the purpose of the Opposition to compound a policy for the Government. In the past they had always aided them and helped them out of many serious positions, but that was at an end, and the Government need not in the future look to the Opposition to rectify mistakes for them. . . . The entire question has developed into a triangular affair, the solution of which is apparently a very difficult matter. Because it was difficult it was no reason why the Opposition should step in and untangle the matter, and, furthermore, they did not intend to do so. The Government said the Opposition ought to suggest something. They were in a minority, but if honorable gentlemen wished them to change places with them in advance of time they would cheerfully respond. They (the Opposition) had nothing to do with the matter."—(*Mail and Empire* report).

This pitiable confession of weakness and incapacity has been substantially repeated many times by Mr. Whitney in the course of his later platform deliverances. After having boxed the compass and tried every imaginable proposal for a change from the extreme of centralizing the license administration in Ottawa to the opposite expedient of the restoration of municipal control, and seeing them in turn rejected

by the country, the Opposition take refuge in a non-committal attitude, and proclaim that they have no policy—"nothing to do with the matter." It is of a piece with their course throughout. They object and carp at petty details, and criticise this and that feature of administration, but have no definite, clearly-cut programme of their own to substitute, nothing but casual makeshift declarations thrown out from time to time, in the hope of catching the current of approval from any quarter, and abandoned so soon as they fail of their purpose.

Local Prohibition Provisions.

Another evidence of the Government's desire to minimize the evils of intemperance, so far as the legislation in its power can be effective to that end, is found in the local prohibitory enactments represented by Local Option Legislation. In 1899 provisions were made for the introduction and passing, by municipalities, of Local Option By-Laws. Since 1890, by-laws for the adoption of Local Prohibition have been submitted to popular vote on 79 occasions in 68 municipalities. These by-laws prohibiting the sale of intoxicating liquors were passed in 51 municipalities, and defeated in 28 instances. In 15 cases the by-laws passed were quashed on appeal to the Courts, chiefly on the decision of Judge Galt that the Act was ultra vires, a judgment that was reversed by the Judicial Committee of the Privy Council. At the present time Local Option By-laws are in force in 21 municipalities, by which 39 tavern licenses and 3 shops have been cut off. During the past year (1901) five by-laws were submitted, four of which sustained Local Option. Two of these were quashed by the Courts on technical grounds, and one by-law was repealed.

Canada Temperance Act.

In 1887 complaints were made of the want of machinery for the enforcement of The Canada Temperance Act, commonly known as the "Scott Act," in the counties in which it had been adopted. Though this was a Dominion law, and should have been enforced by the Federal authorities, yet for the sake of the interests involved, the Government of this Province passed an Act for the appointment of special Police Magistrates in all such counties.

The Government were asked if they would appoint Police Magistrates for the purposes of the Scott Act, in cases in which the County Councils requested it. To this they agreed. Only two County Councils took advantage of this agreement, and asked for the appointment of Magistrates. The Government, complying with the request of the friends of the Scott Act, obtained from the Legislature authority for the purpose of securing a better observance of the law.

Legislation was also passed, providing for the payment of a share of the expenses of license districts in such counties by the County Council, and applying to the cases of such counties, as to such license districts, the provisions of the Liquor License Act and its amendments.

This was followed, 1888, by a measure amending the Liquor License Act, by providing for the appointment of License Commissioners in counties where the Scott Act was in force, and for the payment of expenses for enforcing the Liquor License Act in such districts or parts of districts; also for the disposal of the license fund which might accrue in any such district.

It should be noted, that in no Province of the Dominion was the responsibility of enforcing the Scott Act assumed by a Provincial Government, except in this Province, and that responsibility was assumed by the Liberal Administration, notwithstanding the refusal of the Dominion Parliament to provide the necessary legislation to secure its observance.

Commissioners and Inspectors, appointed under the License Act, who were not in sympathy with the Scott Act, were replaced by those who were, in order to ensure that the provisions of the prohibition law would be enforced, and these officers were specially charged with the enforcement of the Act. A prominent and trusted temperance advocate, the late Rev. Mr. Manning, who had some local experience in connection with the enforcement of the License Act, was also appointed by the Government, and placed in the Head Office, specially charged with the duty of supervising the work of the Inspectors, and seeing that the provisions of the Scott Act were enforced. The death of Mr. Manning having rendered vacant the position he had occupied with such satis-

faction to the temperance community, the Government appointed to the vacancy Mr. J. K. Stewart, of Ottawa, whose reputation as a leading temperance advocate was provincial in its character.

Temperance in Public and Separate Schools.

In addition to the restriction and reduction of licenses it may be mentioned (though not directly connected with the License Department), that under the school regulations temperance and hygiene form part of the course of study in all the public and separate schools of the Province, the number of pupils receiving instruction in these subjects having risen from 33,924 in 1882 to 219,776 last year.

Another gratifying result of the progressive tendency of license legislation, is the improved character of the hotels of the Province, in comfort, equipment, sanitary and other conveniences.

